



W.A(MD)No.926 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2025

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)No.926 of 2019
and C.M.P.(MD)Nos.8318 and 8630 of 2019
and
Suo Motu Cont.P.(MD)No.1020 of 2020**

W.A.(MD)No.926 of 2019

1. S.C.Pandian (died)
2. P.Ganesan
3. P.J.Maheshraja
4. Jayamani
5. Selva Jothi
6. Selvashantha
7. Selvajayanthi
8. Geetha

(Appellants 4 to 8 are brought on record as
LRs of the deceased 1st appellant vide
order dated 02.09.2024 made in
C.M.P.(MD)No.11934 of 2024 in
W.A.(MD)No.926 of 2019)

... Appellants

versus

1. The Inspector General of Registration,
Santhome High Road,
Santhome,
Chennai – 600 004.



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2. The District Registrar (Admin),
Tenkasi,
Tirunelveli District.
(cause title amended vide order
dated 16.04.2019 made in C.M.P.(MD)No.
9434 of 2019 in W.A.(MD)No.926 of 2019)

3. The Sub Registrar,
S.H.40, Thenkasi Road,
Alangulam,
Tirunelveli District – 627 851.

4. K.H.Kalil Ahmed

5. Mohammed Musafar Ahmed

6. P.Abraham

7. The Sub Registrar,
Mukkoodal,
Tirunelveli District.

8. Pon Ravi
(Respondents 7 and 8 are *suo motu*
impleaded vide order dated 05.11.2020
made in W.A.(MD)No.926 of 2019)

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent praying to allow the Writ Appeal by setting aside the order made in W.P.(MD)No.1202 of 2017 dated 09.08.2019.

For Appellants : Mr.AR.L.Sundaresan



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Senior Counsel
for Mr.K.Gurunathan
For R1 to R3 & R7: Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.M.Sarangan,
Additional Government Pleader
For R4 to R6 : Mr.M.Ajmal Khan
for M/s.Ajmal Associates

Suo Motu Cont. P. (MD)No.1020 of 2020

The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

... Referring Officer

versus

1. P.Abraham
S/o. Paul Nadar,
No.10, Perumalchetti Street,
Kovilpatti,
Kovilpatti Taluk,
Thoothukudi District.
2. Pon Ravi,
S/o Gunavel,
47/H4, Nanthagopalapuram East,
Thoothukudi,
Melur Tuticorin,
Thoothukudi – 628 002
Tamil Nadu.

... Contemnors/
6th and 8th respondents

Suo Motu Contempt proceedings initiated against the Contemnors for their act of executing a sale deed, dated 31.08.2020 with regard to the 1/3rd of the property in question along with some other property, which comes under the



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jurisdiction of the Mukkoodal Sub-Registrar Office, Tirunelveli District, belonging to a third party, who is also shown as a co-vendor, in spite of an order of interim injunction for a period of four weeks while admitting W.A.(MD)No. 926 of 2019 and C.M.P.(MD)No.8630 of 2019.

COMMON JUDGMENT

P.VELMURUGAN, J.,

The appellants 1 to 3 herein had filed two writ petitions before this Court in W.P.(MD)Nos.1202 and 1203 of 2017. The prayer sought for in the writ petition in W.P.(MD)No.1202 of 2017 is to quash the impugned order dated 15.12.2016 passed by the second respondent in Petition No.5398/B1/2016 and consequently, direct the 3rd respondent to cancel all the sale deeds admitted by the impugned order dated 15.12.2016 passed by the second respondent in the properties consisting of 303 Plots in S.Nos.105/1, 80/1, 80/3, 105/2, 107/4, 112/1, 115/1, 114/2, 109/2E, 107/3, 116, 117/1, 111, 110, 115/2, 114/3B, 117/2, 117/4 and 117/8, 117/6 and 117/7 situated at KTR Satellite Township at Anaivadapathi Village, Alangudi, Kudavasal Taluk. The prayer sought for in the writ petition in W.P.(MD)No.1203 of 2017 is to direct the second respondent to pass orders based on the enquiry conducted by the second respondent on 11.07.2016.



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2. The case of the appellants 1 to 3/petitioners before the writ Court was that they had constituted 'PGM developers', a partnership Firm in the year 2007 for carrying out the real estate business and developing properties and in the month of August 2008, they purchased 303 plots in the name of the partnership firm in the layout KTR Satellite Township at Aanaivadapathi Village, Alangudi, Kudavasal Taluk, to an extent of 5.5 lakhs sq.ft approved by the DTCP by its approval No.91/2003 for their business purpose. The above said plots had been purchased by different sale deeds registered on 26.08.2008 totalling 16 documents, namely, Document Nos.406 of 2008 to 4021 of 2008. In the meanwhile, the 5th respondent had created a letter of authorization to act as representative of the partnership firm, which was alleged to have been signed by the first petitioner and that authorization letter was used to create a general Power of Attorney, which is said to have been executed by the 5th respondent along with one Madasamy, appointing 6th respondent as Power Agent to deal with the properties. The said Power of Attorney in favour of the 6th respondent said to have been registered on 06.07.2015 by document No.2439 of 2015 before the Sub-Registrar, Ottapidaram, Tuticorin District. On knowing the same, the appellants 1



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to 3/petitioners issued an objection letter to the Sub-Registrar, Thiruvarur, on 06.11.2015 and pending consideration of their objection, on 27.11.2015, the 6th respondent said to have entered into a sale agreement in favour of one Mohammed Nagutha Marakkayar, which had been registered as Document No. 2608 of 2015 on the file of Sub-Registrar, Ottapidaram, Tuticorin District, with regard to the firm's property. On knowing the fraud committed against the firm's property, the petitioners preferred a detailed complaint to the first respondent as early as 17.02.2016, who in turn directed the District Registrar, Tuticorin, to enquire into the alleged Power of Attorney and the sale agreement. Based on the said direction, the District Registrar, Tuticorin, issued summons dated 27.05.2016 directing the petitioners to appear on 11.07.2016. Pursuant to the said summons, the first petitioner appeared before the District Registrar, Tuticorin on 11.07.2016 and produced all the necessary documents. During the enquiry, the first petitioner claimed that one of the author of the Power of Attorney dated 06.11.2015 in Document No.2439 of 2015 had cancelled the power that was given in favour of the 6th respondent and subsequently, the petitioner also cancelled the alleged Power of Attorney dated 06.06.2016. However, the 6th respondent had executed a sale deed based on the alleged cancelled Power of Attorney with regard to the



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firm's property in favour of the 4th respondent, that had been presented for registration before the Sub-Registrar, Alangulam.

3. It was the further case of the appellants 1 to 3/petitioners that the third respondent, namely, the Sub-Registrar, Alangulam, placed the said sale deed for verification of value of the property and also to verify whether any court order or any other order has been passed restraining to register the property. As against the same, the fourth respondent filed a Writ Petition seeking for a direction to the Sub-Registrar, Alangulam to register and release the sale deed dated 17.06.2016. In the said Writ Petition, this Court has passed an order directing the third respondent to pass suitable orders within six weeks. However, the third respondent, in compliance to the said order passed by this Court, passed an order refusing to register the sale deed dated 17.10.2016. However, against the order of the third respondent, the fourth respondent had preferred an appeal before the second respondent. The second respondent, by his order dated 15.12.2016, set aside the order of the third respondent and directed the third respondent to register the sale deed in favour of the fourth respondent. Challenging the same, the writ petitioners have approached this Court by way of filing the writ petitions.



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4. The case of the 6th respondent before the Writ Court was that based on the order passed by the second respondent, the third respondent had registered the document presented by the 6th respondent. Further, the Sub-Registrar has no jurisdiction to cancel the document registered by him and in case, the petitioners are aggrieved by any deed of conveyance or its registration, they ought to have approached the competent Civil Court. The petitioners' firm 'PGM Developers' represented by the first petitioner herein had entered into an agreement for sale with the 6th respondent on 27.05.2015, by which, it was agreed that some properties would be sold to him and in turn, the properties of the sixth respondent would be conveyed to the Firm and in furtherance of the agreement, the Firm had issued an authorization to the 5th respondent to deal with the properties. Pursuant to the sale agreement, the 6th respondent's properties in S.No.19/1B, 97/1, 110/7, 98/5A2, 110/3C, 92/5, 111/2A, 98/5B2 in Ottapidaram Taluk, Tuticorin District, were conveyed in favour of the PGM Developers by sale deed dated 16.11.2015. In the said sale deed, the 5th respondent was represented on behalf of the petitioner's firm and the first petitioner. The 6th respondent also executed a sale deed dated 09.11.2015 in favour of the petitioners' firm for the properties in S.No.



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164/2, 188/3, 176/4B, 177/1, 187/1, 187/4, 188/1, 218/2, 218/6, 221/1, 211/2, 279/2, 330/1, 179/3, 192, 178/1, 178/4, 199, 199/3, 259/2A, 260/1 and 221/2 at Avalnatham Village, Kovilpatti Union, Tuticorin District in S.No.99/3, Venkatesapuram Village, Ottapidaram Taluk, Tuticorin District.

5. It was the further case of the 6th respondent that the petitioners' Firm utilized the said property, however, the petitioners filed a suit in O.S.No.25 of 2017 before the District Munsif Court, Thiruvarur, where, a direction was issued to maintain *status quo* in respect of the said properties. For the very same cause of action, the petitioners have filed the writ petition. Therefore, there is an abuse of process of law and Court and when the civil suit is pending before the Civil Court, the Writ Court should not entertain the Writ Petition in these circumstances. Further, the Writ Petition is filed only on the basis of the authorization letter given to the fifth respondent to act on behalf of the Firm, was a fabricated one. Whether the authorization letter was a fabricated one or not, is a matter of evidence and that has to be decided only before the Civil Court. Therefore, the writ court cannot decide the validity of authorization letter. Therefore, the Writ Petition itself is not maintainable.



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6. The case of the second respondent before the Writ Court was that as per the decision of the Hon'ble Supreme Court in ***Satya Pal Anand vs. State of Madhya Pradesh and others*** reported in **(2016) 10 SCC 767**, the cancellation of documents as prayed for by the petitioners cannot be done and they have to approach the competent Civil Court.

7. The learned Single Judge, after hearing both the writ petitions at length, by a common order dated 09.08.2019, disposed of the writ petition in W.P. (MD)No.1203 of 2017, with a direction to the concerned authorities to give necessary opportunity and pass orders in accordance with law as expeditiously as possible and dismissed W.P.(MD)No.1202 of 2017. Challenging the dismissal order passed by the learned Single Judge in W.P.(MD)No.1202 of 2017 dated 09.08.2019, the petitioners therein have filed the present writ appeal. There is no appeal filed against the order passed in W.P.(MD)No.1203 of 2017.

8. The learned Senior Counsel appearing for the appellants submits that the Registering authority did not follow Rule 55 of the Registration Rules before



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registering the power of attorney document. By virtue of registration of power of attorney, subsequent sale deed came to be executed. The learned Single Judge ought to have considered the object of Rule 55 r/w. Sections 36 and 34 of the Registration Act and dealt with the said issue. However, the learned Single Judge failed to deal with the said issue. The learned Senior Counsel further submits that the private respondents are attempting to alienate the property and create third party interest. Since the learned Single Judge failed to consider the same, the appellants 1 to 3 have filed this appeal before this Court and got an order of interim injunction. In spite of the order of interim injunction, the respondents 6 and 8 herein executed a sale deed dated 31.08.2020 with regard to the 1/3rd of the property in question along with some other property. Since they have violated the order of interim injunction, this Court, by order dated 05.11.2020, initiated *suo motu* contempt proceedings against the respondents 6 and 8 and the same is listed today along with W.A.(MD)No.926 of 2019.

9. The learned Senior Counsel further submits that Rule 55 of the Registration Rules lays emphasis on the duty of the registering authority before doing any registration. If any objections are raised with regard to the registration



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of any document, it is the duty of the Sub-Registrar to look into the said objection as contemplated in the Registration Rules. But, the second respondent failed to take note of the fact that the objections raised by the appellants herein. The learned Senior Counsel further submits that the first appellant has denied the authorization letter said to have given to the 5th respondent alleging that he has forged his signature. Even assuming that the authorization letter was genuine, whether one of the partners alone independently could give such an authorization to sell the immovable property of the firm without the consent of the other partners and whether it is valid in law. But, the learned Single Judge failed to take note of the same and the provisions under Section 19(2) of the Indian Partnership Act. The learned Senior Counsel further submits that Sections 32, 33, 40 and 43 of Registration Act and Rule 162(VII) of the Registration Rules empower the Registrar to refuse registration of a document when the document is presented by a person for registration, who has no right to present the same. Therefore, the order passed by the second respondent is illegal and in violation of the provisions of the Registration Act. The learned Senior Counsel further submits that the learned Single Judge failed to take note of the criminal case filed against the private respondent and also the forensic report that was also produced to disprove



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the veracity of the so-called authorization letter. Further, the 3rd respondent has rightly passed the order of refusal of registration and when the private respondents filed an appeal before the second respondent, the second respondent, without considering the material facts and without considering Rules 55 and 162 of the Registration Rules, set aside the order of the 3rd respondent and directed to register the document which is against the provisions of law. Further, there was no notice and enquiry conducted by the second respondent calling objections and reasons from the appellants herein and the second respondent passed the impugned order behind the back of the appellants. But, the second respondent misled the learned Single Judge by making a wrong statement that he conducted a thorough enquiry before setting aside the order of the 3rd respondent. However, the learned Single Judge dismissed the writ petition that the order passed by the second respondent dated 15.12.2016 has been acted upon and further, the documents have been registered by the 3rd respondent, which cannot be cancelled under Article 226 of the Constitution of India and the petitioners have to workout their remedy elsewhere in the manner known to law and cannot approach this Court. The learned Single Judge further observed that once an order is implemented, the consequences of implementing such order has to be separately



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challenged and as far as in the present case, the consequences of implementing the order dated 15.12.2016 by the 3rd respondent has given rise to registration of documents presented by the 6th respondent for registration. Therefore, the order passed by the learned single Judge warrants interference. The learned Senior Counsel has also relied on the following Judgments in support of his contentions:

(i) 2016 SCC OnLine Mad 6613 (Asset Reconstruction Company (India) Limited, Rep. by its Manager, Mr.Nirav Parek the Ruby, 10th Floor, Senapati Bapat Marg, Dadar (West), Mumbai vs. The Inspector General of Registration, No.100, Santhome High Road, Chennai and others)

(ii) (2022) 8 SCC 210 (Asset Reconstruction Company (India) Ltd. vs. S.P.Velayutham and others)

(iii) W.A.No.1160 of 2024, dated 27.09.2024 (P.Pappu vs. The Sub Registrar, Rasipuram SRO, Rasipuram, Namakkal District)

10. The specific case of the private respondents is that the subject properties belong to PGM Developers, which is a partnership Firm constituted by



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the appellants. The appellants are the partners of the PGM Developers. The first appellant gave authorization letter to the 5th respondent as authorized representative of the PGM Developers to act on their behalf within the State of Tamil Nadu. Based on the authorization letter given by PGM developers and since the properties originally belonged to one D.Madasamy, the authorized signatory of PGM developers, namely, the 5th respondent along with the said D.Madasamy executed a registered power of attorney dated 06.11.2015 in favour of the 6th respondent. Based on the said power of attorney, the 6th defendant sold the property to the 4th respondent and executed a sale deed in favour of the 4th respondent on 17.10.2016. The said documents were presented before the Sub Registrar, Alangulam on 17.10.2016 and the same were kept pending. Since the properties are lying under the jurisdiction of the Sub Registrar, Alangulam, namely, 3rd respondent along with other properties lying under the jurisdiction of the Sub Registrar, Thiruvavur, the same were sent for verification of value of the properties and to find out whether there is any court order or other orders of lawful authorities restraining to register properties belonging to Sub Registrar office, Thiruvavur. In the meanwhile, the first appellant presented a deed of cancellation of the power of attorney in Doc.No.2439/2015 and the said



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cancellation deed was registered as Document No.5319/2016. Under the said circumstances, the private respondents filed a writ petition in W.P.(MD)No.21499 of 2016 for mandamus directing the 3rd respondent to release the deeds which were kept pending. This Court also directed the 3rd respondent to pass suitable order with regard to the registration of documents on pending document No.36 of 2016 within a period of six weeks from the date of receipt of a copy of the order. However, the 3rd respondent passed a refusal order on 07.12.2016 refusing to register the document and directed the private respondents to receive the unregistered documents. Aggrieved over the same, the private respondents filed an appeal before the second respondent. The second respondent, after considering the same, set aside the order passed by the 3rd respondent and directed to register the documents and released the same. Aggrieved over the same, the appellants filed the writ petition.

11. The specific case of the appellants is that the first respondent never executed any authorization letter and the same was forged by the 5th respondent. The 5th respondent said to have executed a power of attorney in favour of the 6th respondent for and on behalf of the appellants. Therefore, the first appellant on



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knowing the same, preferred a complaint before the concerned Police Station, based on which, they have registered a case, collected the documents and sent them to the Forensic Lab. In the Forensic Lab, they found that the signature found in the authorization letter and the signature found in the cancellation of power of attorney are different. Therefore, as the signature found in the authorization letter is not that of the first appellant, the 5th respondent forged the signature of the first appellant. Therefore, the first appellant cancelled the power of attorney.

12. It is the further case of the appellants that even assuming that the first appellant gave the authorization to sell the properties belonging to the Partnership Firm, all other partners have to give consent for authorization. Even as per Section 19(2)(g) of the Partnership Act, one partner alone does not have the authority to transfer immovable property of the firm. Unless the specific consent or authorization by other partners, no authorization letter can be given to sell the immovable properties belonging to the Partnership Firm on behalf of other partners. Therefore, every partners have to specifically give authorization or consent to alienate the properties belonging to the Partnership Firm. The power



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of attorney said to have been executed by the 5th respondent in favour of the 6th respondent was registered. Under Section 17(1)(h) of the Registration Act, 1908, a power of attorney relating to an immovable property has to be compulsorily registered on and from 01.12.2012 and unless it is registered, the sale is not valid based on the unregistered power of attorney. Even though the so-called power of attorney was registered, the same was executed only based on the authorization letter alleged to have been given by the first appellant, which is not registered one and it is valid under the Registration Act and hence the subsequent sale based on the power of attorney is also invalid. Therefore, it is in violation of principles of law and rules. Accordingly, the writ petition is maintainable.

13. The case of the official respondents is that though the 3rd respondent initially refused to register for some reasons, subsequently, based on the direction of the 2nd respondent, it was registered.

14. Heard the arguments advanced on either side and perused the materials available on record.



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15. A core question to be decided in this appeal is as to whether the authorization letter dated 19.10.2015 is a valid one or not. The power of attorney is said to have been executed by the 5th respondent in favour of the 6th respondent based on the authorization letter dated 19.10.2015. No doubt, the authorization letter dated 19.10.2015 was challenged by the appellants herein. According to the appellants, the said authorization letter was not given by the partnership Firm and the first appellant never executed the said authorization letter. Subsequently, a criminal complaint was also given against the 5th respondent and the same is also pending.

16. The learned Senior Counsel appearing for the appellants mainly emphasized that as per the Tamil Nadu Amendment Act 2012, the power of attorney regarding the immovable property has to be registered and unless it is registered, the sale based on the said unregistered power of attorney is not valid. Though the power of attorney executed in favour of the 5th respondent was registered, it is not executed by the actual owner, namely, M/s. PGM Developers. Therefore, the learned Senior Counsel emphasized that based on the authorization



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letter, a power of attorney cannot be registered, based on which, the property cannot be sold.

17. A perusal of the authorization letter dated 19.10.2015 shows that the first appellant appointed the 5th respondent as their authorized representative to act on their behalf. The clause (3) of the letter shows that the partners have consented to sell and dispose of the above properties by way of power of attorney or sale deed/agreement. Based on the authorization letter, the 5th respondent executed a power of attorney in favour of the 6th respondent along with one M.Madasamy, who is the owner of a portion of the disputed property. Based on the said power of attorney, the 6th respondent executed a sale deed in favour of the 4th respondent. The authorization letter does not convey any right and title over the property, however, it gives only authorization to execute a power of attorney. Further, the pre-condition for executing the sale deed through power of attorney is that the power of attorney must be registered regarding the sale of immovable property.

18. In this case, the main contention of the appellants is that the first



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appellant alone had executed the letter of authorization and two other partners namely, appellants 2 and 3 did not execute any consent or authorization letter. Further, the cancellation of the power of attorney was only done by the first appellant on behalf of the partners of PGM developers. Therefore, whether the authorization letter is a genuine one or not; whether the first appellant appointed the 5th respondent as an authorized representative or not; whether the appellants 2 and 3 gave consent to the first appellant to appoint the 5th respondent as an authorized representative or not; whether the authorization letter said to have been given by the first appellant will bind on the appellants 2 and 3; whether the PGM Developers is the partnership Firm or not; whether the 5th respondent forged the authorization letter and based on the forged authorization letter, the 5th respondent executed a power of attorney in favour of the 6th respondent, which is valid or not, are all the disputed facts in this case and these are all matters of evidence to be decided only by the competent Civil Court. Therefore, the Judgments relied upon by the learned Senior Counsel are not applicable to the present case.

19. The Writ Court cannot go into the disputed facts involved in this case.



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The Hon'ble Apex Court and this Court, time and again, held that if there are disputed questions of fact involved in a case, the Writ Court should not exercise its jurisdiction under Article 226 of the Constitution of India and a petition filed under Article 226 of the Constitution of India is not a proper remedy. Further, the Writ court cannot conduct roving enquiry on disputed question of facts. It is left open to the appellants to agitate before the competent Civil Court about the execution and validity of the authorization letter. Further, this Court is of the view that the Registration Authority cannot go into the validity of the authorization letter.

20. It appears that subsequent to the order of the second respondent, the sale deeds were registered and once they are registered, the Registration Department cannot cancel the registered documents, except the manner known to law. Therefore, once the documents are registered, it is left open to the appellants to challenge the validity of documents and right of the parties to execute the documents, before the Civil Court. Neither the writ Court nor the Registration Department can decide the validity of the documents which involves the factual aspects.



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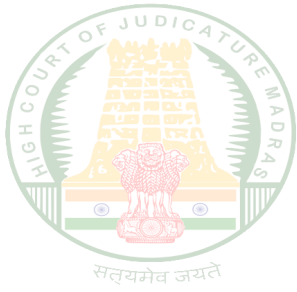
21. Therefore, this Court finds that there is no reason to interfere with the order passed by the learned Single Judge in W.P.(MD)No.1202 of 2017 dated 09.08.2019 and the writ appeal deserves to be dismissed. Accordingly, this writ appeal is dismissed. In consequence thereof, the Contempt Petition is also closed. Connected miscellaneous petitions are also closed. No costs.

[P.V.,J.] [K.K.R.K.,J.]
14.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Inspector General of Registration,
Santhome High Road,
Santhome,
Chennai – 600 004.
2. The District Registrar (Admin),
Tenkasi,
Tirunelveli District.
3. The Sub Registrar,
S.H.40, Thenkasi Road,
Alangulam,
Tirunelveli District – 627 851.



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and
K.K.RAMAKRISHNAN, J.

ogy

Judgment made in
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